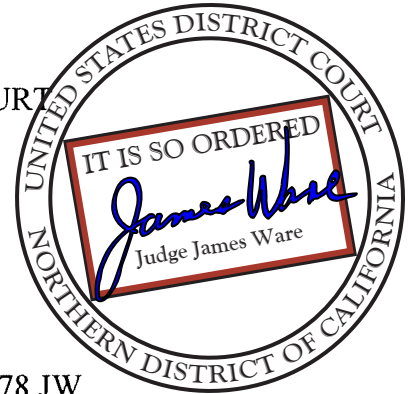


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT
SAN JOSE DIVISION



FEDERAL INSURANCE COMPANY, an
Indiana corporation,

Plaintiff,

vs.

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, a Minnesota
corporation,

Defendant.

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY, a Minnesota
corporation,

Counter-Claim Plaintiff,

vs.

FEDERAL INSURANCE COMPANY, an
Indiana corporation, and NATIONAL
UNION FIRE INSURANCE COMPANY
OF PITTSBURGH, PA, a Pennsylvania
corporation

Counter-Claim Defendants.

Case No. C 05 01878 JW

**STIPULATION AND [PROPOSED]
ORDER EXTENDING THE DEADLINE
TO COMPLETE EXPERT DISCOVERY**

**STIPULATION AND [PROPOSED] ORDER
EXTENDING THE DEADLINE TO COMPLETE
EXPERT DISCOVERY**

Pursuant to Civil Local Rules 6-2 and 7-12, the Parties submit the following Stipulation and [Proposed] Order Extending the Deadline to Complete Expert Discovery:

WHEREAS:

1. This action was filed by Federal Insurance Company ("Federal") against St. Paul Fire and Marine Insurance Company ("St. Paul") on May 6, 2005. On June 24, 2005, St. Paul filed a counterclaim against Federal and National Union Fire Insurance Company of Pittsburgh, PA ("National Union").

2. The close of discovery is currently scheduled for November 21, 2007.

3. A Scheduling Order was issued on July 12, 2006, essentially adopting the schedule in the parties' Joint Case Management Statement and Proposed Order. A copy of this Scheduling Order is attached as Exhibit A.

4. A Stipulation and Order Extending Certain Trial Dates was issued on February 27, 2007, due to the time necessary to analyze voluminous discovery including a database produced by Cirrus Logic exceeding 500 Giga Bytes and to locate and arrange for the depositions of certain witnesses no longer employed by any party. A copy of this Stipulation and Order is attached as Exhibit B.

5. A Stipulation and Order Extending Certain Scheduled Dates was issued on May 14, 2007, due to the extraordinary circumstances of Zelle, Hofmann, Voelbel, Mason & Gette LLP, St. Paul's counsel's law firm of record, announcing the closure of its Los Angeles office. A copy of this Stipulation and Order is attached as Exhibit C.

6. A Stipulation and Order Extending Certain Scheduled Dates was issued on August 8, 2007, due to the time necessary for Marc J. Shrake, St. Paul's counsel, to transition from Zelle, Hofmann, Voelbel, Mason & Gette LLP to Squire, Sanders & Dempsey L.L.P. A copy of this Stipulation and Order is attached as Exhibit D.

7. All parties have been working diligently to complete discovery in this complex insurance coverage matter before November 21, 2007. To date, seven fact witness depositions have been taken, and five additional depositions are currently scheduled.

1 8. St. Paul served its expert witness designation on September 20, 2007.

2 9. Federal served its rebuttal expert disclosure on October 5, 2007, to which National
3 Union has served a joinder.

4 10. Federal filed its Motion for Summary Judgment on October 15, 2007 and St. Paul
5 filed its Cross-Motion for Summary Judgment on November 5, 2007. The hearing on these
6 motions is currently set for December 10, 2007. The last day to hear dispositive motions is
7 February 4, 2008.

8 11. The parties are attempting reasonably and expediently to schedule the depositions
9 of the four expert witnesses who have been designated, but are not likely to be able to do so
10 before the close of discovery.

11 12. Accordingly, the parties wish to extend from November 21, 2007 to January 31,
12 2008, the deadline to complete expert discovery.

13 **NOW, THEREFORE, IT IS HEREBY STIPULATED** that expert discovery shall be
14 completed by January 31, 2008.

15 **IT IS SO STIPULATED.**

16 Dated: November 8, 2007

17 NEWTON REMMEL

18
19 By: 

20 Stephen L. Newton
21 Gabriel G. Gregg
22 Attorneys for Plaintiff and Counterclaim
23 Defendant
24 FEDERAL INSURANCE COMPANY

25 Dated: November 8, 2007

26 SQUIRE, SANDERS & DEMPSEY L.L.P.

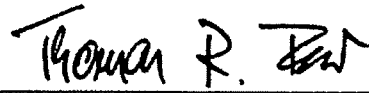
27 By: 

28 Marc J. Shrake
Attorneys for Defendant and
Counterclaimant
ST. PAUL FIRE AND MARINE
INSURANCE COMPANY

1 Dated: November 8, 2007

BARGER & WOLEN LLP

2
3 By:



4 Thomas Beer
5 Attorneys for Counterclaim Defendant
6 NATIONAL UNION FIRE INSURANCE
7 COMPANY OF PITTSBURGH, PA
8

9 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**
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11

12 Dated: November 21, 2007



13 The Honorable James Ware
14 United States District Judge
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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Federal Insurance Co.,

No. C 05-01878 JW

Plaintiff,

SCHEDULING ORDER

v.

St. Paul Fire & Marine Ins. Co.,

Defendant.

Upon filing, this case was scheduled for a case management conference on July 17, 2006. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement and Proposed Order. Based on their joint submission, it appears that a schedule for the case can be set without the necessity of an appearance at this time. Accordingly, the case management conference is cancelled and the parties are ordered to comply with the following schedule:

Case Schedule

**Preliminary Pretrial Conference and Trial Setting
Conference (¶ 12)**

October 22, 2007

**Preliminary Pretrial Conference Statements
Due (10 days before conference) (¶ 11)**

October 12, 2007

1	Last Date for Hearing	September 10, 2007
2	Dispositive Motions (¶ 10)	
3	(42 days before Preliminary Pretrial Conference)	July 13, 2007
4	Close of Discovery (¶ 9)	
5	Deadline for parties to contact	
6	Court's ADR Program to select and	July 27, 2006
7	schedule ADR procedure (¶ 15)	
8	(15 days after the date of this Order)	

9 None of the dates set in this order may be changed without an order of the court made after a
10 motion is duly filed and made pursuant to the local rules of this court.

11 **Standing Order to Lodge Printed Copy of "ECF" Papers**

12 1. In all cases, including cases covered by the Electronic Case Filing System of
13 the Court "ECF," when filing papers in connection with any motion or any pretrial conference, in
14 addition to filing the paper electronically, the filing parties shall lodge with the Clerk's Office a
15 printed copy of the papers, in an envelop clearly marked "Chamber's Copy – Lodged for the
16 Chambers of Judge James Ware." The "Chamber's Copy" envelop must state the case name and case
17 number and be delivered on or before the close of the next court day following the day the papers
18 are filed electronically. See Standing Order Regarding Case Management in Civil Cases.

19 **Compliance with Discovery Plan and Reference to Magistrate Judge**

20 2. The Court adopts the Discovery Plan proposed by the parties in their Joint
21 Case Management Statement. The parties are ordered to comply with the discovery plan. Any
22 disputes with respect to the implementation of the discovery plan and all disclosure or discovery
23 disputes are referred to the assigned Magistrate Judge. In addition, any disputes pertaining to
24 service or joinder of parties or claims are referred to the assigned Magistrate Judge.

25 **Document Management During Pretrial Discovery and Electronic Evidence Presentation**

26 3. This Court has available a digital and video electronic evidence presentation
27 system. Before commencement of pretrial discovery, the parties are ordered to familiarize
28 themselves with the system, and to meet and confer about whether the case will involve voluminous
documentary. If so, as the parties identify documentary material which is likely to be used as trial

1 exhibits, the parties are ordered to electronically store these materials in a fashion which will
2 facilitate displaying them electronically during the trial. The parties are reminded that Civil L.R. 30-
3 2(b) requires sequential numbering of exhibits during depositions and that numbering must be
4 maintained for those exhibits throughout the litigation. Each proposed exhibit shall be pre-marked
5 for identification. All exhibits shall be marked with numerals. The parties shall meet and confer on
6 a division which will avoid duplication (e.g., Plaintiff: 1-99,000; Defendant #1: 100,000-299,999;
7 Defendant #2: 300,000-500,000).

8 **Disclosure of Expert Witnesses**

9 4. Any party wishing to present expert witness testimony with respect to a
10 claim or a defense shall lodge with the Court and serve on all other parties the name, address,
11 qualifications, résumé and a written report which complies with Fed.R.Civ.P. 26(a)(2)(B) **63 days**
12 **before close of discovery.** Expert witness disclosure must be made with respect to a person who is
13 either (a) specially retained or specially employed to provide expert testimony pursuant to
14 Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to
15 provide expert opinion testimony.

16 5. The parties are also required to lodge any supplemental reports to which any
17 expert will testify at trial in accordance with Fed.R.Civ.P. 26(a)(2)(B).

18 6. Any party objecting to the qualifications or proposed testimony of an expert
19 must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in
20 writing in accordance with Civil Local Rule 7-2, for hearing no later than **42 DAYS AFTER BOTH**
21 **EXPERT AND REBUTTAL EXPERT DISCLOSURES ON A MONDAY (LAW AND**
22 **MOTION DAY) at 9:00 a.m.** and preferably before or on the same day as the discovery cutoff
23 date at 9:00 a.m.

24 **Rebuttal Expert Witnesses**

25 7. If the testimony of the expert is intended solely to contradict or rebut opinion
26 testimony on the same subject matter identified by another party, the party proffering a rebuttal
27
28

1 expert shall make the disclosures required by Fed.R.Civ.P. 26(a)(2)(B), no later than **49 days prior**
2 **to discovery cutoff.**

3 **Limitation on Testimony by Expert Witnesses**

4 8. Unless the parties enter into a written stipulation otherwise, upon timely
5 objection, an expert witness shall be precluded from testifying about any actions or opinions not
6 disclosed prior to the expert's deposition. This is to ensure that all factual material upon which
7 expert opinion may be based and all tests and reports are completed prior to the expert deposition.
8 Unless application is made prior to the close of expert discovery, each party will be limited to
9 calling only one expert witness in each discipline involved in the case.

10 **Close of Discovery**

11 9. Pursuant to Civil L.R. 26-2, all discovery, including supplemental
12 disclosure, depositions of fact witness and expert witnesses, must be completed on or before the
13 deadline set forth in the Case Schedule above.

14 **Last date for Hearing Dispositive Motions**

15 10. The last day for hearing dispositive motions is set forth in the Case Schedule
16 above. Any motions must be noticed in accordance with the Civil Local Rules of this Court.

17 **Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order**

18 11. The attorneys who will try the case are ordered to confer with one another
19 and to file and lodge with Chambers on or before the deadline set forth in the Case Schedule above a
20 Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order, stating their
21 readiness for trial, the amount of time which the Court should allocate for trial and the calendar
22 period for the trial.

23 12. The attorneys who will try the case are ordered to appear on the date set in
24 the Case Schedule at 11:00 a.m. for a Preliminary Pretrial and Trial Setting Conference.

25 13. With respect to the time allocation for trial, at the Preliminary Pretrial and
26 Trial Setting Conference trial counsel will be asked to stipulate to a time allocation to each side for
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1 the trial of the case. Once a stipulated allocation has been entered, the parties must plan their
2 presentations to conform to the stipulated time allocation.

3 14. With respect to the calendar period for trial, based on the time allotted to the
4 case, a calendar period for trial will be set. In the event it becomes necessary to delay the start of
5 trial because of the Court's calendar, the commencement date will trail from day-to day until the
6 other matter is concluded or further order of the Court.

7 **Alternative Dispute Resolution**


8 15. The parties are referred to the Court's ADR Program at (415) 522-2199. No later than
9 the deadline set forth in the Case Schedule, the parties shall contact the ADR Program or the
10 designated Magistrate Judge to schedule a conference.

11 Magistrate Judge Patricia V. Trumbull: Corinne Lew (408) 535-5378

12 Magistrate Judge Richard Seeborg: Bernadette Kunkel (408) 535-5357

13 Magistrate Judge Howard R. Lloyd: Patty Cromwell (408) 535-5365

14
15 Dated: July 12, 2006

16 
17 JAMES WARE
18 United States District Judge
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1 THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

2 Marc J. Shrake mshrake@zelle.com
3 Melissa A Dubbs mdubbs@newtonremmel.com
4 Stephen Newton efile@newtonremmel.com
Thomas R. Beer tbeer@barwol.com
William Lee wlee@barwol.com

5
6 Dated: July 12, 2006

Richard W. Wiekling, Clerk

7
8 By: /s/ JW Chambers

Melissa Peralta
Courtroom Deputy

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EXHIBIT B

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FEDERAL INSURANCE COMPANY, an)
Indiana corporation,)
Plaintiff,)
vs.)
ST. PAUL FIRE & MARINE INSURANCE)
COMPANY, a Minnesota corporation,)
Defendant.)
_____)
AND RELATED COUNTERCLAIM.)
_____)

Case No: C 05-01878 JW
STIPULATION AND [PROPOSED] ORDER EXTENDING CERTAIN SCHEDULED DATES

1 Pursuant to Civil Local Rules 6-2 and 7-12, the parties hereto submit the following
2 Stipulation and [Proposed] Order Extending Certain Scheduled Dates:

3 **WHEREAS,**

4 1. The above-entitled action was filed by Federal Insurance Company ("Federal")
5 against St. Paul Fire and Marine Insurance Company ("St. Paul") on May 6, 2005. A
6 counterclaim was filed by St. Paul against Federal and National Union Fire Insurance Company
7 of Pittsburgh, PA, ("National") on June 24, 2005.

8 2. On July 12, 2006, this Court issued a Scheduling Order in this action which
9 essentially adopted the schedule set forth in the parties' Joint Case Management Statement and
10 Proposed Order without hearing. A true and correct copy of the Court's Scheduling Order is
11 attached hereto as Exhibit A.

12 3. Federal and St. Paul each have provided certain written discovery in response to
13 mutual discovery requests, including the exchange of large document productions. Federal and
14 St. Paul also have engaged in correspondence raising certain issues related to these document
15 productions. Moreover, Cirrus Logic has produced a database exceeding 500 Giga Bytes. The
16 voluminous discovery has taken months to examine.

17 4. On January 17, 2007, Federal requested by letter that St. Paul make available
18 certain St. Paul employees for deposition in St. Paul, Minnesota, on proposed deposition dates
19 from February 20 to February 23, 2007.

20 5. St. Paul was unable to provide witnesses on these dates, but the parties expect to
21 be able to schedule the requested depositions on dates from March 27 to March 30, 2007. St.
22 Paul also has informed Federal that certain of the requested witnesses are no longer employed
23 by St. Paul but that counsel for St. Paul will represent these former employees at deposition.
24 Counsel for St. Paul has also agreed to accept service on behalf of such former employees.

25 6. Given the delay in scheduling these depositions, the voluminous documents
26 exchanged in discovery, and the general protracted progression of this case to date, the parties
27 have agreed that certain of the dates scheduled in this action and set forth in the Scheduling
28

1 Order should be extended and rescheduled by six-weeks (forty-two days), and all the parties are
2 willing to stipulate to such extensions.

3 7. There have been no previous extensions of time requested in this action.

4 **NOW, THEREFORE,**

5 **IT IS HEREBY STIPULATED** that the following scheduled dates, which have not yet
6 passed, should be extended and rescheduled by six-weeks (forty-two days), or as soon
7 thereafter as permitted by the Court, as follows:

- 8 • The Preliminary Pretrial Conference and Trial Setting Conference shall be
9 scheduled for Monday, **December 3, 2007** (formerly October 22, 2007).
- 10 • Preliminary Pretrial Conference Statements shall be due **November 23, 2007**
11 (formerly October 12, 2007).
- 12 • Last Date for Hearing Dispositive Motions shall be **October 22, 2007** (formerly
13 September 10, 2007).
- 14 • Close of Discovery shall be **August 24, 2007** (formerly July 13, 2007).
- 15 • All associated dates set forth in the Scheduling Order, which have not yet passed,
16 including expert witness disclosures, expert witness reports, expert witness
17 objections, and rebuttal expert witness disclosures, are also extended and
18 rescheduled by six-weeks (forty-two days).
- 19 • The last day to have a private mediation shall be **May 23, 2007** (formerly April 11,
20 2007).

21 **IT IS SO STIPULATED.**

22 Dated: February 26, 2007

NEWTON REMMEL

23
24 By: 

25 Stephen L. Newton
26 Gabriel G. Gregg
27 Attorneys for Plaintiff and Counterclaim
28 Defendant
FEDERAL INSURANCE COMPANY

1
2 Dated: February 26, 2007

ZELLE, HOFMANN, VOELBEL, MASON &
GETTE LLP

3
4 By: Marc J. Shraake
5 Marc J. Shraake
6 Georgiana V. Palanca
7 Attorneys for Defendant and
8 Counterclaimant
9 ST. PAUL FIRE AND MARINE
10 INSURANCE COMPANY

11 Dated: February ___, 2007

BARGER & WOLEN LLP

12 By: _____
13 Thomas Beer
14 Attorneys for Counterclaim Defendant
15 NATIONAL UNION FIRE INSURANCE
16 COMPANY OF PITTSBURGH, PA

17 **ORDER**

18 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

19 February 27, 2007

20 James Ware
21 JAMES WARE
22 United States District Judge
23
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25
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27
28

1 Dated: February ____, 2007

ZELLE, HOFMANN, VOELBEL, MASON &
GETTE LLP

2
3 By: _____

4 Marc J. Shrake
5 Georgiana V. Palanca
6 Attorneys for Defendant and
7 Counterclaimant
8 ST. PAUL FIRE AND MARINE
9 INSURANCE COMPANY

10 Dated: February 23, 2007

BARGER & WOLEN LLP

11 By: _____

12 Thomas Beer
13 Attorneys for Counterclaim Defendant
14 NATIONAL UNION FIRE INSURANCE
15 COMPANY OF PITTSBURGH, PA

16 ORDER

17 PURSUANT TO STIPULATION, IT IS SO ORDERED.

18 February ____, 2007

19 JAMES WARE
20 United States District Judge

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Federal Insurance Co.,
Plaintiff,
v.
St. Paul Fire & Marine Ins. Co.,
Defendant.

No. C 05-01878 JW
SCHEDULING ORDER

Upon filing, this case was scheduled for a case management conference on July 17, 2006. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement and Proposed Order. Based on their joint submission, it appears that a schedule for the case can be set without the necessity of an appearance at this time. Accordingly, the case management conference is cancelled and the parties are ordered to comply with the following schedule:

Case Schedule

Preliminary Pretrial Conference and Trial Setting Conference (¶ 12)	October 22, 2007
Preliminary Pretrial Conference Statements Due (10 days before conference) (¶ 11)	October 12, 2007

1	Last Date for Hearing	September 10, 2007
2	Dispositive Motions (§ 10)	
	<i>(42 days before Preliminary Pretrial Conference)</i>	
3	Close of Discovery (§ 9)	July 13, 2007
4	Deadline for parties to contact	
5	Court's ADR Program to select and	July 27, 2006
6	schedule ADR procedure (§ 15)	
	<i>(15 days after the date of this Order)</i>	

7 None of the dates set in this order may be changed without an order of the court made after a
8 motion is duly filed and made pursuant to the local rules of this court.

9 **Standing Order to Lodge Printed Copy of "ECF" Papers**

10 1. In all cases, including cases covered by the Electronic Case Filing System of
11 the Court "ECF," when filing papers in connection with any motion or any pretrial conference, in
12 addition to filing the paper electronically, the filing parties shall lodge with the Clerk's Office a
13 printed copy of the papers, in an envelop clearly marked "Chamber's Copy – Lodged for the
14 Chambers of Judge James Ware." The "Chamber's Copy" envelop must state the case name and case
15 number and be delivered on or before the close of the next court day following the day the papers
16 are filed electronically. See Standing Order Regarding Case Management in Civil Cases.

17 **Compliance with Discovery Plan and Reference to Magistrate Judge**

18 2. The Court adopts the Discovery Plan proposed by the parties in their Joint
19 Case Management Statement. The parties are ordered to comply with the discovery plan. Any
20 disputes with respect to the implementation of the discovery plan and all disclosure or discovery
21 disputes are referred to the assigned Magistrate Judge. In addition, any disputes pertaining to
22 service or joinder of parties or claims are referred to the assigned Magistrate Judge.

23 **Document Management During Pretrial Discovery and Electronic Evidence Presentation**

24 3. This Court has available a digital and video electronic evidence presentation
25 system. Before commencement of pretrial discovery, the parties are ordered to familiarize
26 themselves with the system, and to meet and confer about whether the case will involve voluminous
27 documentary. If so, as the parties identify documentary material which is likely to be used as trial
28

1 exhibits, the parties are ordered to electronically store these materials in a fashion which will
2 facilitate displaying them electronically during the trial. The parties are reminded that Civil L.R. 30-
3 2(b) requires sequential numbering of exhibits during depositions and that numbering must be
4 maintained for those exhibits throughout the litigation. Each proposed exhibit shall be pre-marked
5 for identification. All exhibits shall be marked with numerals. The parties shall meet and confer on
6 a division which will avoid duplication (e.g., Plaintiff: 1-99,000; Defendant #1: 100,000-299,999;
7 Defendant #2: 300,000-500,000).

8 **Disclosure of Expert Witnesses**

9 4. Any party wishing to present expert witness testimony with respect to a
10 claim or a defense shall lodge with the Court and serve on all other parties the name, address,
11 qualifications, résumé and a written report which complies with Fed.R.Civ.P. 26(a)(2)(B) **63 days**
12 **before close of discovery**. Expert witness disclosure must be made with respect to a person who is
13 either (a) specially retained or specially employed to provide expert testimony pursuant to
14 Fed.R.Evid. 702 or (b) a regular employee or agent or treating physician who may be called to
15 provide expert opinion testimony.

16 5. The parties are also required to lodge any supplemental reports to which any
17 expert will testify at trial in accordance with Fed.R.Civ.P. 26(a)(2)(B).

18 6. Any party objecting to the qualifications or proposed testimony of an expert
19 must file, serve and notice a motion to exclude the expert or any portion of the expert's testimony in
20 writing in accordance with Civil Local Rule 7-2, for hearing no later than **42 DAYS AFTER BOTH**
21 **EXPERT AND REBUTTAL EXPERT DISCLOSURES ON A MONDAY (LAW AND**
22 **MOTION DAY) at 9:00 a.m.** and preferably before or on the same day as the discovery cutoff
23 date at 9:00 a.m.

24 **Rebuttal Expert Witnesses**

25 7. If the testimony of the expert is intended solely to contradict or rebut opinion
26 testimony on the same subject matter identified by another party, the party proffering a rebuttal
27
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1 expert shall make the disclosures required by Fed.R.Civ.P. 26(a)(2)(B), no later than **49 days prior**
2 **to discovery cutoff.**

3 **Limitation on Testimony by Expert Witnesses**

4 8. Unless the parties enter into a written stipulation otherwise, upon timely
5 objection, an expert witness shall be precluded from testifying about any actions or opinions not
6 disclosed prior to the expert's deposition. This is to ensure that all factual material upon which
7 expert opinion may be based and all tests and reports are completed prior to the expert deposition.
8 Unless application is made prior to the close of expert discovery, each party will be limited to
9 calling only one expert witness in each discipline involved in the case.

10 **Close of Discovery**

11 9. Pursuant to Civil L.R. 26-2, all discovery, including supplemental
12 disclosure, depositions of fact witness and expert witnesses, must be completed on or before the
13 deadline set forth in the Case Schedule above.

14 **Last date for Hearing Dispositive Motions**

15 10. The last day for hearing dispositive motions is set forth in the Case Schedule
16 above. Any motions must be noticed in accordance with the Civil Local Rules of this Court.

17 **Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order**

18 11. The attorneys who will try the case are ordered to confer with one another
19 and to file and lodge with Chambers on or before the deadline set forth in the Case Schedule above a
20 Preliminary Pretrial and Trial Setting Conference Statement and Proposed Order, stating their
21 readiness for trial, the amount of time which the Court should allocate for trial and the calendar
22 period for the trial.

23 12. The attorneys who will try the case are ordered to appear on the date set in
24 the Case Schedule at 11:00 a.m. for a Preliminary Pretrial and Trial Setting Conference.

25 13. With respect to the time allocation for trial, at the Preliminary Pretrial and
26 Trial Setting Conference trial counsel will be asked to stipulate to a time allocation to each side for
27
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1 the trial of the case. Once a stipulated allocation has been entered, the parties must plan their
2 presentations to conform to the stipulated time allocation.

3 14. With respect to the calendar period for trial, based on the time allotted to the
4 case, a calendar period for trial will be set. In the event it becomes necessary to delay the start of
5 trial because of the Court's calendar, the commencement date will trail from day-to day until the
6 other matter is concluded or further order of the Court.

7 **Alternative Dispute Resolution**

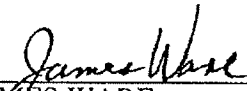
8 15. The parties are referred to the Court's ADR Program at (415) 522-2199. No later than
9 the deadline set forth in the Case Schedule, the parties shall contact the ADR Program or the
10 designated Magistrate Judge to schedule a conference.

11 Magistrate Judge Patricia V. Trumbull: Corinne Lew (408) 535-5378

12 Magistrate Judge Richard Seeborg: Bernadette Kunkel (408) 535-5357

13 Magistrate Judge Howard R. Lloyd: Patty Cromwell (408) 535-5365

14
15 Dated: July 12, 2006

16 
17 JAMES WARE
18 United States District Judge
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1 THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

2 Marc J. Shrake mshrake@zelle.com
3 Melissa A Dubbs mdubbs@newtonremmel.com
4 Stephen Newton efile@newtonremmel.com
5 Thomas R. Beer tbeer@barwol.com
6 William Lee wlee@barwol.com

7
8 Dated: July 12, 2006

Richard W. Wicking, Clerk

9 By: /s/ JW Chambers

Melissa Peralta
Courtroom Deputy

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United States District Court
For the Northern District of California

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FEDERAL INSURANCE COMPANY, an
Indiana corporation,

Plaintiff,

vs.

ST. PAUL FIRE & MARINE INSURANCE
COMPANY, a Minnesota corporation,

Defendant.

AND RELATED COUNTERCLAIM.

) Case No: C 05-01878 JW

) **STIPULATION AND [PROPOSED]**
) **ORDER EXTENDING CERTAIN**
) **SCHEDULED DATES**

STIPULATION AND [PROPOSED] ORDER EXTENDING CERTAIN SCHEDULED DATES

1 Pursuant to Civil Local Rules 6-2 and 7-12, the Parties submit the following Stipulation
2 and [Proposed] Order Extending Certain Scheduled Dates:

3 **WHEREAS,**

4 1. This action was filed by Federal Insurance Company ("Federal") against St. Paul
5 Fire and Marine Insurance Company ("St. Paul") on May 6, 2005. On June 24, 2005, St. Paul
6 filed a counterclaim against Federal and National Union Fire Insurance Company of Pittsburgh,
7 PA, ("National Union").

8 2. Extraordinary circumstances have arisen prompting Marc Shrake, counsel for St.
9 Paul, to request that scheduling in this case be extended by approximately 60 days

10 3. On May 1, 2007, Mr. Shrake's firm, Zelle, Hofmann, Voelbel, Mason & Gette
11 LLP, announced the closure of its Los Angeles office, where Mr. Shrake is located.

12 4. Mr. Shrake discussed this development with counsel for Federal and counsel for
13 National Union, who have agreed to stipulate to an extension of dates in this case by
14 approximately 60 days in order to allow Mr. Shrake and St. Paul to sort out the issues arising
15 from the Zelle Hofmann office closure. The new stipulated dates are set forth below.

16 5. A Scheduling Order was issued on July 12, 2006, essentially adopting the
17 schedule in the parties' Joint Case Management Statement and Proposed Order. A copy of this
18 Scheduling Order is attached as Exhibit A.

19 6. A Stipulation and Order Extending Certain Trial Dates was issued on February
20 27, 2007, due to the time necessary to analyze voluminous discovery including a database
21 produced by Cirrus Logic exceeding 500 Giga Bytes and to locate and arrange for the
22 depositions of certain witnesses no longer employed by any party. A copy of this Stipulation
23 and Order is attached as Exhibit B.

24 7. The Parties have, to date, completed five depositions, and they are in the process
25 of selecting a mediator.

1 NOW, THEREFORE,

2 IT IS HEREBY STIPULATED that the following scheduled dates, which have not yet
3 passed, should be extended and rescheduled by approximately 60 days, or as soon thereafter as
4 permitted by the Court, as follows:

- 5 • The last day to have a private mediation shall be **July 25, 2007** (formerly May 23,
6 2007).
- 7 • Close of Discovery shall be **October 24, 2007** (formerly August 24, 2007).
- 8 • Last Date for Hearing Dispositive Motions shall be **January 7 2008** (formerly
9 October 22, 2007).
- 10 • Preliminary Pretrial Conference Statements shall be due **January 23, 2008**
11 (formerly November 23, 2007).
- 12 • The Preliminary Pretrial Conference and Trial Setting Conference shall be
13 scheduled for Monday, **February 4, 2008** (formerly December 3, 2007).
- 14 • All associated dates set forth in the Scheduling Order, which have not yet passed,
15 including expert witness disclosures, expert witness reports, expert witness
16 objections, and rebuttal expert witness disclosures, are also extended and
17 rescheduled by 60 days.

18
19 IT IS SO STIPULATED.

20 Dated: May 10, 2007

NEWTON REMMEL

21
22 By: 

23 Stephen L. Newton
24 Gabriel G. Gregg
25 Attorneys for Plaintiff and Counterclaim
26 Defendant
27 FEDERAL INSURANCE COMPANY
28

1 Dated: May 16, 2007

ZELLE, HOFMANN, VOELBEL, MASON &
GETTE LLP

2
3 By: Marc J. Shrake
4 Marc J. Shrake
5 Attorneys for Defendant and
6 Counterclaimant
7 ST. PAUL FIRE AND MARINE
INSURANCE COMPANY

8 Dated: May 11, 2007

BARGER & WOLEN LLP

9
10 By: Thomas R. Beer
11 Thomas Beer
12 Attorneys for Counterclaim Defendant
13 NATIONAL UNION FIRE INSURANCE
14 COMPANY OF PITTSBURGH, PA

15 ORDER

16 PURSUANT TO STIPULATION, IT IS SO ORDERED.

17 Dated: May 14, 2007

18 James Ware
19 THE HONORABLE JAMES WARE
20 United States District Judge
21
22
23
24
25
26
27
28

EXHIBIT D

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FEDERAL INSURANCE COMPANY, an
Indiana corporation,

Plaintiff,

vs.

ST. PAUL FIRE & MARINE INSURANCE
COMPANY, a Minnesota corporation,

Defendant.

AND RELATED COUNTERCLAIM.

Case No: C 05-01878 JW

**STIPULATION AND [PROPOSED]
ORDER EXTENDING CERTAIN
SCHEDULED DATES**

STIPULATION AND [PROPOSED] ORDER EXTENDING CERTAIN SCHEDULED DATES

Pursuant to Civil Local Rules 6-2 and 7-12, the Parties submit the following Stipulation and [Proposed] Order Extending Certain Scheduled Dates:

WHEREAS,

1. This action was filed by Federal Insurance Company ("Federal") against St. Paul Fire and Marine Insurance Company ("St. Paul") on May 6, 2005. On June 24, 2005, St. Paul filed a counterclaim against Federal and National Union Fire Insurance Company of Pittsburgh, PA ("National Union").

2. Extraordinary circumstances require that St. Paul request that the scheduling in this case to extended by approximately 30 days.

3. St. Paul has been represented throughout this case by attorney Marc Shrake, formerly of the Los Angeles office of Zelle, Hofmann, Voelbel, Mason & Gette LLP ("Zelle Hofmann").

4. On May 1, 2007, Zelle Hofmann announced the closure of its Los Angeles office. Based on this development, St. Paul requested, and Federal and National Union agreed, and the Court entered an Order on May 14, 2007, to extend the dates in this case by approximately 60 days. A copy of this Scheduling Order is attached as Exhibit A.

5. Mr. Shrake has now joined the law firm of Squire, Sanders & Dempsey L.L.P. ("Squire Sanders"), and St. Paul is in the process of transferring responsibility for this case to Mr. Shrake at his new firm. However, Mr. Shrake has advised counsel for Federal and National Union that he has encountered possible conflict issues and is working diligently to resolve them, including obtaining any necessary consents or waivers from Federal and National Union and/or their respective affiliated companies. Mr. Shrake anticipates that these matters can be resolved in the next 30 days.

6. The Parties have, to date, completed five depositions and, on July 23, participated in a mediation with Mr. Martin Quinn of JAMS in San Francisco. The parties are continuing to discuss possible resolution of this case through Mr. Quinn via telephone.

STIPULATION AND [PROPOSED] ORDER EXTENDING CERTAIN SCHEDULED DATES

1 7. A Scheduling Order was issued on July 12, 2006, essentially adopting the
2 schedule in the parties' Joint Case Management Statement and Proposed Order. A copy of this
3 Scheduling Order is attached as Exhibit B.

4 8. A Stipulation and Order Extending Certain Trial Dates was issued on February
5 27, 2007, due to the time necessary to analyze voluminous discovery including a database
6 produced by Cirrus Logic exceeding 500 Giga Bytes and to locate and arrange for the
7 depositions of certain witnesses no longer employed by any party. A copy of this Stipulation
8 and Order is attached as Exhibit C.

9 **NOW, THEREFORE, IT IS HEREBY STIPULATED** that the following scheduled dates,
10 which have not yet passed, should be extended and rescheduled by approximately 30 days, or
11 as soon thereafter as permitted by the Court, as follows:

- 12 • Close of Discovery shall be **November 21, 2007** (formerly October 24, 2007).
- 13 • Last Date for Hearing Dispositive Motions shall be **February 4, 2008** (formerly
14 January 7, 2008).
- 15 • Preliminary Pretrial Conference Statements shall be due **February 22, 2008**
16 (formerly January 23, 2008).
- 17 • The Preliminary Pretrial Conference and Trial Setting Conference shall be
18 scheduled for Monday, **March 3, 2008** (formerly February 4, 2008).
- 19 • All associated dates set forth in the Scheduling Order, which have not yet passed,
20 including expert witness disclosures, expert witness reports, expert witness
21 objections, and rebuttal expert witness disclosures, are also extended and
22 rescheduled by 30 days.

1
2 IT IS SO STIPULATED.

3 Dated: August _____, 2007

NEWTON REMMEL

4
5 By: _____

6 Stephen L. Newton
7 Gabriel G. Gregg
8 Attorneys for Plaintiff and Counterclaim
9 Defendant
10 FEDERAL INSURANCE COMPANY

11
12 Dated: August 2, 2007

13 By: Marc J. Shrake

14 Marc J. Shrake
15 Attorney for Defendant and Counterclaim
16 Plaintiff
17 ST. PAUL FIRE AND MARINE
18 INSURANCE COMPANY

19
20 Dated: August 1, 2007

BARGER & WOLEN LLP

21 By: Thomas R. Beer

22 Thomas Beer
23 Attorneys for Counterclaim Defendant
24 NATIONAL UNION FIRE INSURANCE
25 COMPANY OF PITTSBURGH, PA

26 ORDER

27 PURSUANT TO STIPULATION, IT IS SO ORDERED.

28 Dated: August 8, 2007

James Ware
THE HONORABLE JAMES WARE
United States District Judge

1
2 **IT IS SO STIPULATED.**

3 Dated: August 6, 2007

NEWTON REMMEL

4
5 By: Stephen J. Newton

6 Stephen L. Newton
7 Gabriel G. Gregg
8 Attorneys for Plaintiff and Counterclaim
9 Defendant
10 FEDERAL INSURANCE COMPANY

11
12 Dated: August _____, 2007

13 By: _____

14 Marc J. Shrake
15 Attorney for Defendant and Counterclaim
16 Plaintiff
17 ST. PAUL FIRE AND MARINE
18 INSURANCE COMPANY

19
20 Dated: August _____, 2007

BARGER & WOLEN LLP

21
22 By: _____

23 Thomas Beer
24 Attorneys for Counterclaim Defendant
25 NATIONAL UNION FIRE INSURANCE
26 COMPANY OF PITTSBURGH, PA

27 **ORDER**

28 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: August _____, 2007

THE HONORABLE JAMES WARE
United States District Judge